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FM AMEMBASSY QUITO
TO RUEHC/SECSTATE WASHDC PRIORITY 9805
INFO RUEHBO/AMEMBASSY BOGOTA 7896
RUEHCV/AMEMBASSY CARACAS 3319
RUEHLP/AMEMBASSY LA PAZ DEC LIMA 2960
RUEHGL/AMCONSUL GUAYAQUIL 3997

C O N F I D E N T I A L QUITO 001178

SIPDIS

USTR FOR BENNETT HARMAN

E.O. 12958: DECL: 12/23/2018
TAGS: ETRD ECON EC
SUBJECT: CHANGE IN ECUADORIAN STANDARDS REQUIREMENTS HITS U.S. IMPORTS

REF: QUITO 1124

Classified By: DCM Andrew Chritton, Reasons 1.4(b) and (d)

¶1. (SBU) Summary: On December 1, Ecuador's trade policy body, COMEXI, issued a resolution changing how certain products can prove compliance with Ecuadorian safety and labeling standards, blocking some U.S. exporters that have not had time to comply. The measure requires product testing in an accredited laboratory in Ecuador, or in a product's country of origin, and affects appliances, construction materials, lubricants, and footwear, among others. Ecuadorian officials claim the GOE is merely stepping up lax enforcement of existing standards, but may also offer a delay in implementation to allow importers to adjust. End Summary.

¶2. (U) Previously, Ecuador allowed use of a company's ISO certification along with a self-declaration of standards compliance, or product testing by an accredited laboratory in Ecuador or (for imports) in the product's country of origin to prove compliance with Ecuadorian safety and labeling standards. Ecuador's Standards Institute (INEN) then issued a required certificate attesting compliance, which for imports was valid for all shipments of the same product for a certain period of time. Under the new rules, only testing by an accredited laboratory in the country of origin or in Ecuador may be used to obtain the certificate, which for imported products is valid for one shipment. Household appliances, some construction materials, ceramics, lubricants, and footwear (which previously did not require a certificate) are affected by the change in requirements, among other products. A number of importers have claimed the change was made without notice.

U.S. COMPANY CONCERNS

¶3. (SBU) The change is blocking some U.S. exporters to Ecuador, since they have not had sufficient time to respond to the measure. On December 1, Ecuadorian customs stopped accepting the former certificates, creating problems for U.S. companies with shipments in process and in transit. U.S. firms Payless Shoes, Frigidaire (owned by Swedish AB Electrolux), and ConocoPhillips have contacted the Embassy regarding the requirement. (Note: Payless Shoes had a shipment held in Ecuadorian customs because it did not have the new certificate, but after consulting with the GOE its products were released.) Most immediately, the companies would like additional time to comply with the new process. However, they are also concerned about the cost of the new requirements. In the past, most U.S. companies used their ISO certification and a self-declaration to meet INEN's requirements, which did not incur additional costs. Under

the new rules, Frigidaire expects an initial certification would cost $15-20,000, while future certifications would cost around $5,000 per shipment. Payless claims that the product inspection for footwear, which it says would only establish the composition of the products, would not serve any consumer protection interest.

GOE EXPLAINS

¶4. (SBU) On December 16 and 18, Embassy officials met with representatives from the Ministry of Foreign Affairs (MFA), Ministry of Industry and Competitiveness (MIC), and Ministry of Production. The GOE representatives all emphasized that the requirements were merely enforcing current standards that had not been enforced properly to date. The Production Ministry official claimed that all of the standards had been notified to the WTO. Embassy officials noted that it was not the compliance with the standards that was an issue, but the change in how compliance was verified.

¶5. (SBU) The MFA and MIC officials were somewhat encouraging on the possibility of flexibilities and a longer phase-in for the new requirements. Economic and Commercial Under Secretary Mentor Villagomez at the MFA commented that a meeting was going on simultaneously at COMEXI on the issue. He said that COMEXI had already conceded a delay in implementation until at least January 1 (and possibly until February 1). The Ministry of Production official Juan Lozada was tougher, suggesting a "very short" delay, and claiming that importers had not been complying with the law but would now have to change their ways. However, he suggested that

perhaps special cases where no accreditation process existed could be addressed on a case by case basis.

¶6. (C) The GOE officials focused their justification on implementing standards that were already in place. One official in particular, Lozada, returned several times to the idea that President Correa instructed his officials to demonstrate how they were implementing existing rules and protecting Ecuadorian consumers and companies. However, Lozada, as well as Villagomez, in discussing the broader context for this review of Ecuadorian standards enforcement, also noted that with the low price of oil, Ecuador is experiencing balance of payments pressure (reftel).

¶7. (C) Comment: It may be that the initial impetus for the measure was to review and strengthen Ecuador's enforcement of its standards regime for imported goods. This review revealed that Ecuadorian officials had been rather lax, at least in the view of some senior officials, in enforcing standards. The officials we met expressed some sympathy in providing a small degree of flexibility to allow U.S. exporters opportunities to comply with the tightened rules without disrupting trade. However, given the desire to be vigilant against BOP pressures and strongly enforce Ecuadorian rules, we suspect that the officials will not offer much flexibility in the revised rules. Indeed, we would not be surprised to see other non-tariff barriers emerge in the near future because of both factors.
HODGES